REMARKS

In response to the Office Action dated April 10, 2008, the following remarks are filed. Claims 1-15 are under consideration.

The present method and system, as recited by claims 1-15, provides a versatile mechanism for the delivery of advertising material specifically targeted to potential consumers of goods or services, by tailoring the advertisements to a demographic profile of particular consumers. Such a targeting enhances the cost effectiveness of the advertising and minimizes the negative reactions often associated with the promotion of goods or services in which a particular consumer has no interest.

This method makes use of a saver card in communication with the program administrator to enhance the method's effectiveness. Responses to targeted advertisements are evidenced by activation of the saver card, which is associated with the recorded profile of a particular consumer. Saver cards can take the form of any one of various types of identification cards (such as keychain cards, credit cards, etc.), and may be distributed to customers and potential customers of the advertising system (at no cost or with a fee) by a business or retailer.

Customers holding a saver card who choose to participate in this marketing program must register with the program administrator (via, for example, an internet website). As a result of registration, targeted messages and advertisements are forwarded to the saver card holder. This system may be used for both on-line and off-line purchasing.

Claims 1-15 were rejected under 35 USC 103(a) as being unpatentable over US Patent 7,158,943 to Van der Riet in view of US Patent Publication US20020046116 to Hohle et al.

Applicant respectfully observes that the van der Riet '943 patent issued January 2, 2007, from US Patent Application Serial No. 10/233,677, which was filed on September 4, 2002, a date subsequent to February 6, 2002, the filing date of the instant application. The van der Riet application was published as US 2003/0126146 on July 3, 2003. Clearly, neither the '943 patent nor the '146 patent publication is available as prior art under 35 USC 102(a) or 35 USC 102(b) against the present application.

The van der Riet application claims the benefit of US Provisional Patent Application Serial No. 60/316,268. Applicant maintains that the van der Riet '943 patent (and the '146 published application) are available as prior art under 35 USC 102(e) only to the extent the subject matter therein is disclosed and enabled by the provisional patent application.

The van der Riet provisional application is directed exclusively to purchase transactions carried out on-line. This van der Riet system allows consumers to research available products and retailers on one central database, thus allowing consumers to have control over their shopping profiles and rewarding them with free ad-based, personalized news/music/information services. Relevant consumer shopping behavior data is created by registering and processing "consumer click/database log data" into (1) consumer profiles and (2) aggregated consumer feedback information on manufacturer/retailer product/category presentations and personalized ad campaigns.

The Examiner has admitted that the van der Riet provisional application does not disclose the use of a loyalty identification card to be used in offline retail locations.

However, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to have modified van der Riet to make use of any type of identification card, including those described by Hohle et al., so that the uniquely identified consumer profiles described in van der Riet can also include offline purchasing tied to the identified consumer, so as to be uniquely associated and tracked as desired.

As noted previously, the van der Riet system teaches the use of one central, on-line database to allow consumers to purchase goods. By way of contrast, applicant's system and method, as recited by in independent claims 1 and 9, requires use of a "program administrator" to deliver advertising material specifically targeted to potential consumers of goods or services based on that consumer's profile. Advantageously, applicant has found that through use of a program administrator to track a consumer's on-line and off-line purchasing activity, a participating consumer is not limited to the use of a single central database in order to take advantage of free ad-based, personalized news/music/information services as taught by van der Riet.

It is therefore respectfully submitted that modification of the van der Riet system to make use of identification cards for off-line purchases will not produce the system and method called for by applicant's claims 1 and 9. Rather, any modification of van der Riet in light of Hohle et al. to monitor off-line purchasing activity would require coordination with a single, central database, limiting a customer's purchasing options.

Even less does the proposed combination of van der Riet and Hohle et al. with or without any Official Notice disclose or suggest the subject matter delineated by claims 2-8 and 10-15. These claims are directed to preferred embodiments of the system and method recited by claims 1 and 9. Each of claims 2-8 and 10-15 depends from claims 1 and 9, respectively. For the reasons set forth above, it is respectfully submitted that claims 2-8 and 10-15 patentably define over the art applied. When compared to any system or method taught by any combination of the cited references, the method and system of applicant's claims 2-8 and 10-15 provides a more versatile mechanism for the delivery of advertising material specifically targeted to potential consumers of goods or services, thereby significantly enhancing cost effectiveness of the advertising and minimizing the negative reactions often associated with the promotion of goods or services in which a particular consumer has no interest.

Accordingly, reconsideration of the rejection of claims 1-15 under 35 USC 103(a) as being unpatentable over the combination of Van der Riet and Hohle et al. is respectfully requested.

CONCLUSION

In view of the foregoing remarks, it is submitted that claims 1-15 patentably define over the art applied. Accordingly, reconsideration of the Final Rejection, entry of this amendment and allowance of claims 1-15 are earnestly solicited.

Respectfully submitted,

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